PUBLIC COPY

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

File [redacted] Office: VERMONT SERVICE CENTER Date: AUG 05 2003

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Petition for Alien Fiancé Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Nigeria, as the fiancé of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the petition after determining that the petitioner and the beneficiary had not personally met within two years before the date of filing the petition as required by section 214(d) of the Act. In reaching this conclusion, the director found that the petitioner had failed to establish that she warranted a favorable exercise of discretion to waive this statutory requirement.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K), defines "fiance(e)" as:

> An alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry....

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states in pertinent part that a fiance(e) petition:

> shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties **have previously met in person within two years before the date of filing the petition,** have a bonafide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival....

[Emphasis added.]

The petitioner filed the Petition for Alien Fiance(e) (Form I-129F) on May 23, 2002. Therefore, the petitioner and the beneficiary were required to have met during the period that began on May 23, 2000 and ended on May 23, 2002.

In response to Question #19 on the Form I-129F, the petitioner indicated that she had met the beneficiary in Nigeria in college and dated four years. She further indicated that she last saw her fiancé on March 31, 2000, more than two years prior to filing the instant petition. The petitioner informed the Bureau that she is a student and financially unable to travel to Nigeria to meet the beneficiary in person.

On appeal, the petitioner states that traveling to Nigeria would result in extreme financial hardship, but she made a trip to Nigeria in December 2002.

Pursuant to 8 C.F.R. § 214.2(k)(2), a director may exercise discretion and waive the requirement of a personal meeting between the two parties if it is established that compliance would:

(1) Result in extreme hardship to the petitioner; or

(2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice.

In the instant case, the petitioner's stated reasons for needing a waiver are not persuasive. Financial and time constraints are normal difficulties encountered in complying with the requirement and are not considered extreme hardship to the petitioner. In addition, the petitioner has failed to establish that compliance with the requirement would violate strict and long-established customs of the beneficiary's foreign culture or social practice.

The petitioner failed to overcome the director's objection to granting the petition. The petitioner sought to overcome the director's objection by traveling to Nigeria to visit her fiancé after she filed the petition. The regulations require that a petitioner meet her fiancé in the two-year period prior to filing the petition. It is noted that the petitioner subsequently filed a new petition within two years of visiting her fiancé in person and that petition was approved.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.